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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**
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12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 vs.

15 CLEOFAS ORTEGA-VILLAREAL,
16 ROBERTO ORTEGA-VILLAREAL,

Defendant.

CASE NO. 09CR2518 WQH

AMENDED
ORDER

17 HAYES, Judge:

18 In the matter before the Court, Defendants move the Court to declare this case complex
19 and exclude time pursuant to Speedy Trial Act, 18 U.S.C. § 3161, et seq. (Doc. # 28, 29).
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21 Section 3161(h)(7)(A) provides that the Court may exclude any period of delay
22 resulting from a continuance “if the judge granted the continuance on the basis of his findings
23 that the ends of justice served by taking such action outweigh the best interest of the public and
24 the defendant in a speedy trial.” Factors which a judge shall consider in determining whether
25 to grant a continuance under subparagraph (A) include “[w]hether the case is so unusual or so
26 complex, due to the number of defendants, the nature of the prosecution, or the existence of
27 novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial
28 proceedings or for the trial itself within the time limits established...” Section


1 3161(h)(7)(B)(ii). “[N]o continuance period may be excluded unless the court makes
2 reasonably explicit findings that demonstrate that the ends of justice served by granting the
3 continuance do, in fact, outweigh the best interests of the public and the defendant in a speedy
4 trial.” *United States v. Perez-Reveles*, 715 F.2d 1348, 1352 (9th Cir. 1983).

5 Based upon the complex nature of this proceedings involving multiple investigations
6 in multiple districts, and the large volume of discovery, the Court concludes that it would be
7 unreasonable to expect defense counsel to be able to adequately prepare for pretrial
8 proceedings or for the trial itself within the time limits established under Section 3161, et seq.,
9 taking into account the exercise of due diligence. The discovery in this case includes
10 thousands of pages of wiretap information from nine wiretap authorizations, reports, photos,
11 and surveillance information. The Court concludes that the ends of justice served by a
12 continuance outweighs the best interest of the public and the Defendants in a speedy trial.
13 Based upon the finding of complexity, the court will exclude the period of time between
14 October 28, 2009 and December 14, 2009 in order to allow all defense counsel an opportunity
15 to review and organize the large volume of discovery, to conduct the required investigation,
16 and to effectively prepare pretrial motions.

17 IT IS HEREBY ORDERED that the motion to declare this case complex and exclude
18 time pursuant to Speedy Trial Act, 18 U.S.C. § 3161(h)(7) filed by Defendants (Doc. # 28, 29)
19 are granted .

20 IT IS FURTHER ORDERED that a period of excludable delay from October 28, 2009
21 to December 14, 2009 is allowed pursuant to Section 3161(h)(7), in addition to any time
22 excludable pursuant to Section 3161(h)(1)(D). This period of excludable delay applies to all
23 defendants in this case pursuant to Section 3161(h)(6). A further hearing has been scheduled
24 in this matter for December 14, 2009 at 2 p.m.

25 DATED: October 29, 2009

26 
27 **WILLIAM Q. HAYES**
28 United States District Judge